

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

IN THE MATTER OF: \*  
\*  
TRIALS BEFORE \*  
JUDGE GILBERTO GIERBOLINI \*  
\*\*\*\*\*

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U.S. DISTRICT COURT  
DISTRICT OF  
PUERTO RICO

**STANDING ORDER FOR TRIALS<sup>1</sup>**

Attorneys shall adhere to the following procedure in civil trials to be held before the undersigned.

**SETTLEMENT AFTER JURY SUMMONED**

Unless otherwise determined by the trial judge for good cause shown and in the interest of justice, the disposition of any case after a jury has been called shall require the parties to bear the cost of said jury. See Rule 323 of the Local Rules of this Court.

**TRIAL BRIEF**

Each party shall file a trial brief no less than three (3) working days before the commencement of a civil trial. The judge shall be furnished with a separate working copy.

Sanctions for failure to file the trial brief may be imposed, including but not limited to sanctions against counsel personally.

The trial brief is not a substitute for the Pretrial Order and shall contain:

1. A list of the witnesses in order of appearance and a concise, one-sentence statement of the subject matter of their

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<sup>1</sup> This Standing Order amends our previous Standing Order of September 1<sup>st</sup>, 1987.

testimony. (E.g., Juan González; he is an eyewitness to the accident and will testify as to what he saw that night.)

2. A list of the expert witnesses, indicating their area of expertise, accompanied by their curriculum vitae.

3. A brief statement of the legal issues likely to occur during the course of the trial followed by no more than two citations relied upon by a party. (E.g., whether the records of the ABC Mfg. Co. are admissible into evidence. Plaintiff contends they are. See Fed. R. Evid. 803(6); Sea-Land Service, Inc. v. Lozen International, Inc., 285 F.3d 808 (9<sup>th</sup> Cir. 2002) .

#### **PROPOSED JURY INSTRUCTIONS, VOIR DIRE AND FORM OF VERDICT**

1. The proposed jury instructions<sup>2</sup> shall be filed no less than three (3) working days before the commencement of trial. The judge is to be furnished with a separate working copy.

2. The proposed jury instructions should be numbered with each instruction on a separate sheet(s) of paper and shall contain the citation and/or source of the instruction, including the so-called "boiler plate" instructions.

3. Failure to file the proposed jury instructions may result in sanctions, including but not limited to the waiver of the right to submit them.

4. A proposed form of verdict must be filed.

5. A proposed voir dire is to be submitted. It must be filed

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<sup>2</sup> Pattern Jury Instructions of the 5<sup>th</sup> Circuit are preferred; Devitt & Blackmar Instructions are not.

three (3) working days before the commencement of trial, otherwise sanctions, as in paragraph 3, may be imposed.

#### **EXHIBITS**

1. All exhibits shall be premarked and exchanged at least three (3) days prior to trial. It shall be the responsibility of counsel to make appropriate arrangements with the Courtroom Deputy Clerk prior to trial in this respect.

2. If there is no objection to an exhibit, it shall be marked into evidence; otherwise, it shall be marked with an identification exhibit tag.

3. If there is an objection to the document, the party making the objection shall set forth the reasons for the objection, together with a short, concise, one-sentence statement, with the citation of the applicable rule of evidence and the citation of case law or other authority in support thereof.

4. At the commencement of the trial, the Court shall be provided with a list of all the exhibits, appropriately indicating those in evidence and those still pending admission. (A suggested form is attached herewith for your convenience.)

5. Failure to mark the exhibits before trial will result in sanctions, including but not limited to a waiver of introducing or presenting unmarked exhibits and/or personal sanctions against the offending attorney.

#### **USE OF DEPOSITION(S) AT TRIAL**

Any objections to designations or counter-designations to portions of depositions to be presented at trial shall have been

brought to the attention of the Court by motion at least ten (10) days prior to trial. Any objections not made prior to this date shall be deemed waived.

#### **CONDUCT AT TRIAL**

To avoid unnecessary delay and, further, to insure fairness in the administration of the proceedings, the following rules shall be observed:

1. Attorneys shall stand at a respectful distance from the jury at all times and never address any particular juror by name. All arguments and closing statements shall be made from the lectern.

2. In the opening statements to the jury, do not argue the case and do not discuss the law. Just state your theory and summarize the evidence you are going to present.

3. Confine yourself to a concise summary of the important facts and/or the witnesses through which you intend to present these facts.

4. The parties will be limited to fifteen (15) minutes in their opening statements. If more time is required in complex cases, a request to that effect shall be filed three (3) working days before the trial.

5. Attorneys shall stand when addressing the Court, including when making objections and questioning witnesses. Counsel with physical disabilities may, of course, be excused from this requirement.

6. When interrogating witnesses do so from the lectern provided for this purpose and avoid wandering about in the well of

the courtroom. Do not approach a witness for any reason without leave of Court. Documents will be handled through the Court Security Officer.

7. Never question a witness with your back to him/her.

8. If you intend to question a witness about a group of documents, avoid delay by having all documents with you when you start examination.

9. Before showing a document or object to a witness which is not yet in evidence, offer to show it first to opposing counsel and mark it for identification.

10. Do not greet or introduce yourself to witnesses, but commence your direct or cross-examination without preliminaries. You may introduce yourself and a colleague at the table, and greet the jury only at the beginning of the opening statements.

11. Do not face or otherwise appear to address yourself to the jury when questioning a witness. If you wish the Court to see any exhibit, please hand it to the Courtroom Deputy Clerk for transmission to the Court.

12. When a witness is testifying, and the attorney for a party, due to a ruling of the Court, wants to make an offer of proof said request must be made **IMMEDIATELY**, but in order not to interrupt the natural flow of testimony, the actual taking of the offer of proof will be postponed until after the next recess. At that time the attorney will renew his/her request to place in the record the proof. If the request is not renewed, it will be understood that it has been withdrawn and/or waived.

**OBJECTIONS**

1. Objections, particularly when in the presence of the jury, shall be short, to the point, and shall not include argument. (E.g., "Objection, hearsay": proper; "I object to the question because it's hearsay in that Mr. González was in Mayaguez when Mr. Pérez said that, etc.": improper.)

2. If the Court deems it advisable to hear argument, it will call counsel to side-bar in a jury trial, or ask for further elaboration in a non-jury trial. Side-bar conferences are to be kept to a minimum since they are unnecessarily time consuming and distracting.

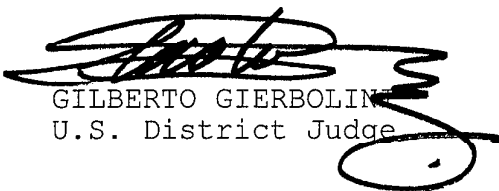
3. The jury shall hear the instructions on the law of the case from the Court. Attorneys shall refrain from attempting to instruct the jury as to the law.

**PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

In non-jury trials, the parties shall submit to the Court proposed findings of fact and conclusions of law within three (3) days after the conclusion of the trial.

**SO ORDERED.**

San Juan, Puerto Rico, this 2nd day of December, 2002.



GILBERTO GIERBOLINI  
U.S. District Judge

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

**EXHIBIT LIST**

V.

CASE NUMBER:

PRESIDING JUDGE					PLAINTIFF'S ATTORNEY		DEFENDANT'S ATTORNEY	
TRIAL DATE(S)					COURT REPORTER		COURTROOM DEPUTY	
PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS*			

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